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Auditor General

February 8, 1988

P-730

Honorable Bruce Bronzan, Chairman  
Members, Joint Legislative  
Audit Committee  
State Capitol, Room 448  
Sacramento, California 95814

Dear Mr. Chairman and Members:

This letter presents the results of our review of the California Horse Racing Board (board). We reviewed allegations that the board had practiced racial discrimination, favoritism, and other irregularities in licensing and selecting stewards. During our review, we found the following conditions:

- The board notified the public of steward examinations for 1985 and 1987 as required by law;
- The board admitted only qualified applicants to steward examinations as required by law, and the board correctly scored the written portion of the examinations;
- For the oral portion of the examinations, the board did not always keep records of the scores, the questions asked by examiners, or the answers given by applicants, nor did the board develop consistent criteria for evaluating applicants. As a result, we could neither prove nor disprove the propriety of the board's conduct in this matter;
- The board does not license stewards as the law requires, bypassing the fingerprinting procedure that allows the board to identify applicants with criminal records. As a result, the board appointed one steward without knowing that he had a misdemeanor criminal record. Also, the State has forfeited at least \$5,800 in license fees since 1980; and
- The board has not fully implemented the recommendations made in our 1982 audit report.

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### Background

The board regulates all horse racing meetings in the State where pari-mutuel wagering occurs.\* The board consists of seven members appointed by the governor to terms of four years, and it appoints a secretary who manages a staff of 40 and acts as the board's executive officer. The principal activities of the board include licensing all participants in pari-mutuel horse racing, contracting with stewards to officiate at the races, enforcing the regulations and laws under which racing is conducted, and collecting the State's share of revenues from horse racing.

The board exerts much of its regulatory control over horse racing through issuing two categories of licenses: licenses to conduct horse racing meetings and occupational licenses. At formal meetings of the board, the board members grant to horse racing associations licenses to conduct horse racing meetings. These licenses set the terms under which horse racing associations can conduct individual horse racing meetings, and they establish such elements as racing dates and charity race days. In contrast to the formal procedures wherein the board grants licenses to conduct horse racing meetings, the board's staff perform most of the activities required for issuing occupational licenses, including reviewing applications and obtaining applicants' fingerprints. All racing industry participants, such as trainers, veterinarians, judges, and stewards, must obtain occupational licenses before they may work within the State's racing industry. The board's regulations state that, to obtain an occupational license, an applicant must complete in writing an application supplied by the board and must pay a fee specified by the board.

Horse racing law allows the board to refuse a license to a person convicted of a felony or crime involving moral turpitude. Further, the board's regulations give the board additional latitude in deciding what constitutes grounds for denying a license. Therefore, every first-time applicant for an occupational license must provide a complete set of fingerprints for use in determining whether the applicant has a criminal record. According to the board's licensing procedures, the staff must forward the fingerprints to the Criminal Identification and Information (CII) Branch of the Department of Justice so that the CII

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\* "Pari-mutuel wagering" is a system of betting on the outcome of horse races that returns to the winning ticket holders a percentage of the total bet in proportion to the amount wagered after deducting license fees, commissions, purses, and other awards.

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can determine whether the applicant has a criminal record. If the applicant has a record, the CII notifies the board. Also, if the applicant is convicted of a crime after submitting fingerprints, the CII will notify the board.

For each licensed horse racing meeting, the board contracts with three stewards who judge the propriety of the running of each race and declare the winner. In addition, the stewards resolve disputes involving the board's licensees and also take disciplinary action against licensees. We have defined this type of steward as a "full steward."

Recent legislation added in 1984 and amended in 1986 permits wagering on horse races at sites other than the racetrack where the race meeting is held. The races are relayed through satellite videos from the racetrack facility to the off-track site. To supervise activities at these new sites, the board began appointing one steward for each off-track wagering site. The board calls these off-track stewards "intertrack stewards," and their duties include supervising the facility for licensed off-track wagering, ensuring that all participants observe the rules of the board, reporting serious misconduct by a licensee at the off-track site to the stewards working at the host track, and maintaining the official minutes of each day's events at the intertrack location where the intertrack stewards are assigned. Unlike full stewards, intertrack stewards have no authority over the race results that are received at the off-track wagering site or in determining the official results of any races run at the host racetrack. Also, although the board will allow a full steward to work at an intertrack facility, it will not allow an applicant who has qualified only as an intertrack steward to work as a full steward.

Currently, the most experienced full stewards earn \$340 to \$500 per day. An intertrack steward earns \$180 a day, regardless of experience. The board now assesses the racing associations for the cost of steward services, but new legislation taking effect on July 1, 1988, will make the State responsible for these costs.

#### Scope and Methodology

The scope of our audit was to review the process that the board uses to examine, select, and license stewards for horse racing meetings and to review the board's implementation of recommendations from our 1982 audit. We attempted to determine whether the board examined and evaluated applicants for steward fairly and objectively, without racial discrimination, favoritism, and other irregularities. Specifically, we

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reviewed the announcement of examinations, the qualifications of applicants, the administration of the written and oral examinations, the selection of qualified stewards for appointment to racing meetings, and the licensing of stewards.

To determine whether the board had notified the interested public of the steward examinations, we interviewed the board's executive secretary to review how the board typically makes examination announcements. We also interviewed the person responsible for making such announcements, and we reviewed the board's files for documents concerning examination announcements. Finally, to confirm when these announcements appeared in public, we contacted the industry newspaper that the board uses to advertise such announcements.

To determine whether all 76 applicants who have tested for the position of steward since 1981 were qualified to take the test and to determine that no qualified applicant was excluded from the examinations, we reviewed the application forms on file for the last four examinations that the board administered. We compared the applicants' experience, education, and other factors to the minimum qualifications that the law requires. Although we reviewed all 101 of the applications on file for the last four examinations, the board could not assure us it kept all the applications received for admission to these examinations.

In reviewing the administration of written and oral examinations for stewards, we interviewed the board's staff to determine how examination questions were formulated, how the scores were calculated, and how the oral interviews were conducted. In addition, we reviewed all 76 of the written examinations in the board's files for the past four steward examinations dating back to 1981. Using the appropriate grading key, we recomputed the 40 written examination scores for the 1981, 1982, and 1985 examinations and compared them to the scores assigned by the board's staff. The board did not use a numeric scoring system for the 36 written examinations given in 1987, however, so we could not recompute those scores.

To determine whether the board treated all applicants equally, we attempted to assemble information about the age, race, and sex of the applicants for the steward examinations. However, the board does not maintain this information about the applicants, and according to the administrator of contract compliance for the Department of Fair Employment and Housing, agencies are not required to keep such information routinely. We also attempted to contact two people who have lodged against the board complaints charging racial discrimination in the selection of stewards. These people did not respond to our requests for information. Finally, we interviewed one other person who

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alleged that the board used favoritism in its selection of stewards. However, this person was unable to furnish us with sufficient evidence to prove or disprove the allegation.

To determine whether the board licenses all stewards properly, we reviewed the laws and regulations for the licensing of stewards. We also interviewed staff of the board to document the board's licensing procedures. Further, to verify that all stewards had been given an adequate background check, we sent a listing of all of the 48 qualified stewards, including stewards who have not worked since 1981, to the Department of Justice, inquiring as to whether the fingerprints of each steward were on file for background investigation purposes. Finally, we obtained a legal opinion from the Legislative Counsel concerning the licensing of stewards.

#### EXAMINATION OF STEWARDS

The California Horse Racing Board (board) followed the law in notifying the public of steward examinations for 1985 and 1987. In addition, the board followed the law in admitting to steward examinations only applicants who met the qualifications for experience, education, and other factors. Further, the board had correctly scored the written portion of the examinations that the board had on file and that we reviewed. However, we could not review applicants' scores for the oral portion of the examinations because the board did not always keep records of these scores. Also, the board did not keep records of the questions used by examiners or the responses given by applicants for the oral portion of the examinations. Moreover, the board did not develop consistent criteria for evaluating applicants' performances during the oral segment of the examinations. As a result, we could neither prove nor disprove the propriety of the board's conduct in the examination and selection of stewards.

Horse racing law requires that, before applicants can qualify for steward licenses, they must pass a written and an oral examination that the board administers. The law also allows the board to select at its discretion the times and locations of examinations for steward and the method of advertising the examinations. In addition, the board may admit to these examinations only applicants who meet specified qualifications. Further, while the board's staff may conduct the written portion of the examinations, a panel that includes two board members and a steward must conduct the oral portion of the examinations. The board must then place those who pass both the written and oral portions of the examination on a list from which the board selects the best qualified applicants with whom to contract for steward services. The law also exempts stewards who were licensed in California before 1981 from taking the written examinations.

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In 1981, new legislation added a section to horse racing law exempting stewards from civil service status. Since that legislation became effective, the board has conducted four steward examinations, in 1981, 1982, 1985, and 1987, which included a written and an oral portion as the law requires. Applicants who passed the first three examinations qualified as full stewards. Those who passed the 1987 examination qualified as intertrack stewards. Table 1 shows the number of applications for the four steward examinations and the results.

TABLE 1  
APPLICATIONS FOR AND RESULTS OF  
STEWARD EXAMINATIONS FOR 1981-1987

| <u>Date of<br/>Examination</u> | <u>Applicants<br/>for<br/>Examination</u> | <u>Applicants<br/>Accepted for<br/>Examination</u> | <u>Applicants<br/>Who Took<br/>Examination</u> | <u>Applicants<br/>Who Passed<br/>Examination</u> | <u>Passing<br/>Applicants<br/>Who Have<br/>Contracted<br/>With the<br/>Board</u> |
|--------------------------------|---|--|--|--|--|
| July 15, 1981                  | 16  | 16   | 16   | 3  | 3  |
| September 15, 1982             | 18  | 14   | 11   | 3  | 2  |
| June 10, 1985                  | 18  | 14   | 13   | 3  | 2  |
| January 12 and 13, 1987        | <u>49</u>                                 | <u>40</u>  | <u>36</u>                                      | <u>19</u>  | <u>13</u>  |
| Total                          | <u>101</u>                                | <u>84</u>  | <u>76</u>                                      | <u>28</u>  | <u>20</u>  |

Of the 101 applicants that the board had on file and that we reviewed, the board accepted 84 (83 percent), and 76 (90 percent) of the 84 actually took the steward examinations. Of those 76 applicants, 28 (37 percent) passed the steward examinations, and 20 (71 percent) of those passing eventually contracted with the board as stewards. However, the board has contracted with a total of 40 stewards since 1981. According to the executive secretary, 20 of those stewards did not have to participate in the examination process because they were stewards before 1981. (See Attachment A for a list of stewards qualified from 1981 through 1987.)

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#### Public Announcements of Steward Examinations

Horse racing law allows the board to announce steward examinations at its discretion. According to the executive secretary, the board typically advertises steward examinations at least 30 days before the intended examination date at its field offices located at race tracks and in the Daily Racing Form, a newspaper for the horse racing industry. Although we could not locate any information about the announcements of the 1981 and 1982 examinations, we determined that the Daily Racing Form had advertised the 1985 steward examination at the board's request at least 58 days before the examination date. For the 1987 examination, the board requested that each racing association post an announcement of the examination. Although the board's files contained a copy of that request dated 80 days before the examination date, the board's personnel assistant did not know whether the associations had posted the announcement. In addition, staff of the Daily Racing Form could not confirm that the paper had advertised the 1987 intertrack steward examination. Since the law allows the board to use its discretion in announcing steward examinations, the board complied with the law for the 1985 and 1987 examinations, even though it did not always follow its typical advertising procedures in announcing examinations.

#### Applications and Written Examinations for Steward

We reviewed all of the 101 applications for admittance to steward examinations that the board had in its files, and we found that, according to the information provided in their applications, all 84 applicants admitted to steward examinations met the minimum qualifications for admittance as described in the law. We also reviewed applications from those denied admission to the examinations, and we found that none of those applicants met the legal minimum requirements. In addition, we reviewed the written portions of the examinations for 1981, 1982, and 1985, recomputing the scores and comparing our scores to the board's scores, and we found that the board's staff correctly computed the written scores for these examinations. We did not evaluate the results of the 1987 written examination for intertrack steward because the board did not use the results of this portion of the examination in selecting intertrack stewards.



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#### Overall Scores and Scores for the Oral Portion of the Examinations

We could not verify that the board had always correctly computed overall scores for each applicant. For the 1981, 1982, and 1985 examinations, the board computed an overall score, which is an average of the numeric scores for the written and oral segments. According to the executive secretary, the board used this overall score to determine whether an applicant was qualified for placement on the list of eligible stewards. Although the board did not keep records of the scores for the oral portion of the 1981 or 1982 examinations, it did keep the scores for all portions of the 1985 examination, and it correctly computed those overall scores. For the 1987 intertrack examination, the board did not use the results of the written portion of the examination but qualified intertrack stewards on the basis of the oral portion only. However, the board did not assign numeric scores for the oral portion of the examination for that year, so we could not assess the accuracy of the scores for the 1987 examination.

In addition to not keeping complete records of scores, the board did not keep a record of the questions that examiners asked each applicant or of the answers that each applicant gave for any of the oral portions of the examinations that we reviewed. According to the executive secretary, two board members, and two stewards who administered oral examinations, examiners did not always ask a prepared list of questions during the examinations. They also did not develop standard criteria for use in scoring the applicants, so we could not assess the propriety of the conduct of the panelists in administering the oral portions of the examinations.

We compared the board's procedures to those that the State Personnel Board (SPB) uses because the SPB conducts examinations similar to the board's to determine the best qualified applicants for specific civil service positions. The SPB requires that the agency conducting an oral examination identify the factors critical to the successful performance of applicants in the position for which they are applying. Each applicant must have an opportunity to answer prepared questions that relate to every critical factor. In addition, panelists must use consistent, predetermined criteria for evaluating applicants. Moreover, the SPB requires that the agencies maintain records, including tape recordings of interviews, to allow independent reviews resulting from appeals. The board did not use procedures similar to the SPB procedures. Since civil service requirements do not govern the selection of stewards, the board does not have to adopt such procedures. Also, according to the executive secretary, the board does not believe that it is required to adopt any procedures beyond those



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specified in the horse racing law. However, as a result of the board's lack of records and lack of standardized procedures to ensure that oral panelists identify the best qualified applicants and that all applicants receive equal treatment, we could draw no conclusions about allegations that the board had engaged in racial discrimination, favoritism, or other irregularities in selecting stewards.

#### THE BOARD DOES NOT LICENSE STEWARDS

The board does not license stewards as the law requires and therefore bypasses the fingerprinting procedure included in the licensing process that allows the board to identify whether applicants have criminal records. As a result of the lack of fingerprints, the board appointed one steward without knowing that he had a misdemeanor criminal record. The board's failure to license stewards has also caused the State to forfeit at least \$5,800 in license fees since 1980.

Section 19442 of the Business and Professions Code directs the board to contract only with licensed stewards. In addition, Section 19510.5 of the code requires that, to obtain a license, candidates for steward must pass both a written and an oral examination. Also, Section 19512 allows stewards to renew licenses for periods of no more than three years; the board's regulations require stewards to pay \$120 for each license renewal. Further, as part of the licensing process, the board's regulations require that board staff obtain fingerprints from each licensee. Alternately, the board's procedures require licensing staff to verify that the applicant has previously received a license requiring the applicant's fingerprints.

Although the law requires the board to contract only with licensed stewards, the board issues permanent identification cards instead of licenses. According to the executive secretary, the board issues these cards only to applicants who passed the steward examination or who qualified and contracted as stewards before 1981. The executive secretary also stated that the board issues these permanent identification cards, for which stewards pay no fees, to all stewards before they begin working. However, the legal opinion of the Legislative Counsel is that the board must contract only with licensed stewards who have paid the appropriate license fee. Therefore, a permanent identification card does not constitute a license.

The executive secretary stated that the board does not issue licenses to stewards because the identification cards demonstrate that the steward has the board's authorization. Also, according to the executive secretary, since stewards are contract employees of the board, the stewards could negotiate that the board pay the license fee

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if the board issued licenses to stewards. Finally, the executive secretary maintains that the minimum experience that the law requires of stewards guarantees that, except for applicants from out of state, all qualified applicants already have held occupational licenses that required submitting fingerprints to the CII for background investigations.

As a result of not following the licensing process that the law prescribes, the board has bypassed the fingerprinting procedure included in the licensing process and could have received insufficient background information for selecting the best qualified stewards. For example, when we tried to verify that all qualified stewards had fingerprints on file, we found that the CII did not have fingerprints on file for 9 (18.8 percent) of the 48 people that have been qualified stewards since 1981. Further, one of the 9 stewards without fingerprints on file also had a misdemeanor criminal record at the time of his appointment by the board. Finally, by not licensing stewards, the board has failed to collect at least \$5,800 in license fees since 1980.

THE BOARD HAS NOT FULLY  
IMPLEMENTED PREVIOUS AUDIT  
RECOMMENDATIONS TO IMPROVE ITS  
REGULATORY CONTROL OF HORSE RACING

In our report entitled "The California Horse Racing Board Needs To Improve Its Regulatory Control of Horse Racing" (P-076, March 1982), we made recommendations to the board for improving controls over five of its regulatory activities. The board has successfully adopted a quality assurance program for laboratories that test for drug use on racehorses and has developed priority statements for investigatory activities; however, the board has not effectively implemented our recommendations to improve the monitoring of proceeds from charity racing days. In addition, the board has only partially implemented our recommendations affecting licensing and pari-mutuel auditing activities.

Our 1982 report recommended that the board improve its procedures for monitoring proceeds from charity race days. During our current review, we determined that, to have minimum assurance that the proper amount of funds from charity racing days is distributed to charities each year, each racing association and corresponding charitable foundation needs

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current law permits the board to use its discretion in its method of administering the required oral examinations, the board has not developed procedures to ensure that oral panelists identify the best qualified applicants for steward. The board did not ask applicants the same set of questions during its oral interviews nor did it predetermine criteria with which to evaluate the applicants' performances. Since the board did not use such procedures, we could neither prove nor disprove the propriety of the board's conduct in the examination and selection of stewards.

The board does not license stewards as the law requires and, therefore, bypasses the fingerprinting procedure included in the licensing process that allows the board to determine whether an applicant has a criminal record. As a result, the board appointed one steward without knowing that he had a misdemeanor criminal record at the time. The board also has failed to collect at least \$5,800 in license fees since 1980. Finally, the board did not effectively implement our recommendations from a previous audit concerning monitoring proceeds from charity racing days and only partially implemented recommendations affecting licensing and pari-mutuel auditing activities.

#### Recommendations

To comply with state law and the board's regulations and to ensure that the board has sufficient background information on applicants for steward, the board should take the following actions:

- License stewards and contract only with licensed stewards;
- Charge the fee set in its regulations for steward licenses and require license renewal every three years; and
- Follow the same fingerprinting procedures when licensing stewards as is required for other licensees of the board.

To effectively monitor funds from charity racing, the board should take the following actions:

- Require that racing associations state the net proceeds from charity racing in their audited financial statements;
- Use a checklist of the required documents and their due dates to track the board's receipt of financial statements and requests for board approval for distributions to charities; and

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- Compare appropriate information from the required documents to identify and then investigate inconsistencies among the documents.

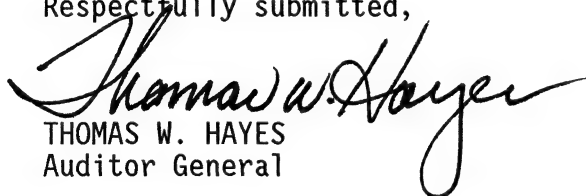
To ensure that the board has received background reports from the CII for all licensees who submit fingerprints, the board should develop controls, as we recommended in our 1982 audit, that identify licensees for whom the board has not received a background report from the CII.

To ensure that the board can rely on the accuracy of the pari-mutuel audit reports, the board should take the following actions:

- Require that all pari-mutuel auditors follow the board's recommended audit plan; and
- Require that reports from pari-mutuel auditors state the internal control tests that the auditors performed.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



THOMAS W. HAYES  
Auditor General

Attachments

California Horse Racing Board's response to this report

QUALIFIED STEWARDS  
FROM 1981 THROUGH 1987

| <u>Name</u>         | <u>Year<br/>Examination<br/>Passed</u> | <u>Type of Steward</u> |                              |
|---------------------|--|------------------------|------------------------------|
|                     |  | <u>Full*</u>           | <u>Intertrack<br/>Only**</u> |
| Robert Banchemo     | 1987                                   |                        | X                            |
| Thomas Bartone      | 1982                                   | X                      |                              |
| Charles Brent       | 1987                                   |                        | X                            |
| Thomas Burns        | 1987                                   |                        | X                            |
| Albert Christiansen | 1987                                   |                        | X                            |
| Ronald Church       | 1987                                   |                        | X                            |
| Michael Corley      | ***                                    | X                      |                              |
| Anne Daftary        | 1987                                   |                        | X                            |
| Charles Dougherty   | ***                                    | X                      |                              |
| James Dreyer        | 1987                                   |                        | X                            |
| Robert Dupret       | ***                                    | X                      |                              |
| Jack Farmer         | 1987                                   |                        | X                            |
| Ingrid Fermin       | 1981                                   | X                      |                              |
| Sheila Gaudreau     | 1985                                   | X                      |                              |
| Mark Gollehon       | 1987                                   |                        | X                            |
| William Hartack     | 1985                                   | X                      |                              |
| John Herbuveaux     | 1981                                   | X                      |                              |
| Hubert Jones        | ***                                    | X                      |                              |
| Charles King        | ***                                    | X                      |                              |
| Thomas Knust        | 1982                                   | X                      |                              |
| Larry Koligian      | 1987                                   |                        | X                            |
| Robert Latzo        | ***                                    | X                      |                              |
| Leon Lewis          | ***                                    | X                      |                              |
| Morton Lipton       | ***                                    | X                      |                              |
| Jack Meyers         | ***                                    | X                      |                              |
| William Meyers      | 1985                                   | X                      |                              |
| Harold Morrison     | ***                                    | X                      |                              |
| Dennis Nevin        | ***                                    | X                      |                              |
| Robert O'Neil       | 1987                                   |                        | X                            |
| Joseph Ortiz        | 1987                                   |                        | X                            |
| Charles Palmer      | 1987                                   |                        | X                            |
| James Parrish       | 1981                                   | X                      |                              |
| Peder Pedersen      | ***                                    | X                      |                              |
| Donna Russo         | 1987                                   |                        | X                            |
| Dave Samuel         | ***                                    | X                      |                              |
| Vincent Santopietro | 1987                                   |                        | X                            |
| Alfred Shelhamer    | ***                                    | X                      |                              |
| Mary Sherlock       | 1987                                   |                        | X                            |
| George Slender      | ***                                    | X                      |                              |
| William Stallings   | 1987                                   |                        | X                            |
| George Taniguchi    | 1982                                   | X                      |                              |
| Peter Tommila       | ***                                    | X                      |                              |
| Peter Tunney        | ***                                    | X                      |                              |
| Daniel Viola        | 1987                                   |                        | X                            |
| Merlin Volzke       | ***                                    | X                      |                              |
| Thomas Ward         | ***                                    | X                      |                              |
| John Williams       | ***                                    | X                      |                              |
| Harold Wolk         | 1987                                   |                        | X                            |

\* A full steward contracts with the board to judge the propriety of the running of each horse race and to declare the winner, to resolve conflicts involving licensees, and to impose disciplinary action against licensees.

\*\* Intertrack stewards supervise the licensed facilities for off-track wagering, ensure that all participants observe the rules of the board, report any cases of serious misconduct by licensees at the off-track sites to the full stewards, and maintain the official minutes of each day's events at the intertrack location where the intertrack stewards are assigned.

\*\*\* These are stewards who were qualified and had contracted with the board before 1981 and were therefore exempted by law from taking the written examination.

**A REVIEW OF THE  
IMPLEMENTATION OF 1982 AUDIT RECOMMENDATIONS**

Quality Assurance for Drug Testing

We reported in our 1982 audit that the board had no assurance that the drug tests of its racing laboratory were accurate because the board had no quality control program. As a result, the board had no assurance that racing participants adhered to the board's regulations concerning drug use in racehorses. The board has since joined the quality control program conducted by the National Association of State Racing Commissioners, and the board's racing laboratories have received favorable evaluations.

Investigator's Manual

Our 1982 audit further determined that the board needed to develop written statements that establish priorities for investigators' duties because the board members felt that investigators spent too much time on duties with low priorities. The board has since developed statements that establish priorities for the duties of investigators.

We also reported in our 1982 audit that the investigator's procedures manual consisted of memoranda and other documents, some of which were out of date. We recommended that the board revise and update the investigator's manual. The investigator's manual now has an index, and a notation in the manual indicates that it was reviewed in 1982.

Charity Racing

In 1982, we reported that the board had no assurance that racing associations contributed all net proceeds from charity racing to charitable foundations. In addition, the board had only limited assurance that the foundations receiving the funds had properly allocated them to approved charities. Our report recommended that the board require associations to submit audited statements of their net proceeds from charity racing and that the board ensure that foundations submit their audited statements on time.

California horse racing law requires that all licensed racing associations, except those for fairs, conduct races for charity during racing meetings. Each association contributes the net proceeds from charity racing to a foundation appointed by the association. Associations compute net proceeds by deducting their expenses, not including overhead costs, from the total revenues collected on charity days. Each foundation must then distribute to qualified charities, within one year of the last day of the meeting during which the charity races were conducted, at least 90 percent of the proceeds that it has

received from each meeting's charity races. To distribute these proceeds to charities, foundations must request approval from the board in a letter stating the total proceeds and containing information about each of the charities receiving funds. Finally, the board's regulations require that each foundation submit audited financial statements within 135 days after the end of its fiscal year.

During our current review, we found that the board has not improved its monitoring of charity proceeds since our 1982 audit. For 1984 and 1985, the board should have received a total of 22 audited statements of charity proceeds from racing associations. However, the board had only 12 (55 percent) such statements in its files. Also, the board should have received 17 audited financial statements from foundations for 1984 and 1985, but the board's files contained only 10 (59 percent) foundation statements. In addition, the board did not have in its files 6 (35 percent) of 17 requests for approval of distribution that the law requires. Of the 11 requests that the board did have, 8 (73 percent) did not state the total net proceeds that the foundation had received, so the board could not verify that the foundation intended to distribute the required 90 percent of those proceeds.

We also noted during our current review that, to ensure that charity organizations receive all appropriate proceeds from charity racing, the board must compare the audited statements from associations to the corresponding audited financial statements and requests for approval of distribution from foundations. However, the board lacked at least one of the three documents needed to effectively monitor 15 (88 percent) of the 17 contributions to foundations for 1984 and 1985 and the resulting distributions. Moreover, we found eight inconsistencies in the information that the board did have for those contributions and distributions. For example, one foundation requested approval to distribute to charity \$200,000 that it had received from charity racing conducted in 1984 and \$8,000 from interest. However, the foundation's audited financial statements later showed revenues of \$250,000 from its association for this period. To comply with the law, the foundation should have distributed \$225,000 (90 percent of \$250,000) within one year after the end of the charity racing meeting. We verified that the foundation did eventually request the board to approve distribution of the remainder of the contributions that it received, but the foundation did not request the approval to distribute the remainder within the time limit that the law requires. In two other instances, associations contributed charity proceeds to foundations that they had not originally named to distribute funds in their applications to the board.

The lack of necessary documents in the board's files and the inconsistencies among the documents in the files indicate that the board cannot ensure that racing associations contribute all net proceeds from charity racing to foundations or that the foundations properly distribute the contributions. The board cannot make these assurances because it has not tracked the receipt of these documents or reconciled the information in the documents that the board does



receive. The totalisator systems examiner for the board stated that he reviews and files all audited statements from foundations that the board receives; however, he does not use a standard procedure to review the documents. He also said that, although he does not know if associations accurately determine the charity donations they owe, the board has not instructed him to give charity racing priority over other tasks that he must also complete.

During our current review, the board took some corrective action. In November 1987, the board distributed a memo to all racing associations mandating that the independent auditors for each association certify in the association's financial statements that the association had followed the laws and regulations relating to charity racing. The memo also requires that the associations notify the board of the date and amount of contributions to their foundations.

### Licensing

During our 1982 audit, we found that the board had not obtained fingerprints of all its licensees and, as a result, had not conducted criminal investigations on these licensees. We recommended that the board establish procedures to ensure that it either obtains fingerprints or verifies that the CII already has fingerprints on file from all licensees. In addition, we recommended that the board implement a tracking system to ensure that the CII processes all fingerprints that the board submits. The board's regulations allow the board to deny a license to a person who has been convicted of a felony or of a crime involving moral turpitude, and the regulations give the board the discretion to deny a license if the applicant has a criminal record, as well as for certain other activities. An applicant for steward who has been convicted of a felony or of a crime involving moral turpitude may not obtain a steward license. However, if the board has not obtained fingerprints from licensees, it will not have all the necessary information to determine whether it should deny a license to an applicant. Although the board implemented a computerized system in 1985 that maintains fingerprint information for each licensee, the CII reported that it did not have fingerprints on file for 14 (32 percent) of a sample of 44 names of licensees that we submitted to the CII. For 4 of the 14 licensees, the board's computer records indicated that the board had received a report from the CII stating that the licensee had no criminal record. The CII, however, normally keeps fingerprints on file after preparing initial background reports so that it can notify the requesting agency of any subsequent convictions. Thus, the CII still should have had the fingerprints of these 4 licensees on file if it had received them. Also, the board could not provide any evidence corroborating its computer information because the board does not keep background reports when the report shows that the licensee does not have a criminal record.

For the ten licensees for whom the board's computer records did not show that the CII had submitted a background report, the board had no indication that one licensee had ever submitted fingerprints. For the other nine licensees, the board had license applications marked with a code that, according to a senior investigator for the board, meant that the licensee had supplied fingerprints.

However, the board could not document that it had ever received background reports for any of these nine licensees even though the license applications for all nine indicated that the licensees had supplied fingerprints in 1985 or earlier. The board could not document that it had received reports because the computer information for all nine licensees contained a code that licensing staff has sometimes used incorrectly. Therefore, the board cannot distinguish in its computer records either the licensees who have not provided fingerprints or the licensees for whom the CII has not returned background reports. As a result, the board cannot always reliably determine whether licensees submitted fingerprints or whether the CII returned background reports to the board.

When the board does not ensure that it receives background reports for all its licensees, the board risks either unknowingly issuing a license to an applicant who has been convicted of a felony or crime involving moral turpitude, or it risks allowing a current licensee to remain licensed after such a conviction.

#### Pari-mutuel Auditing

In our 1982 audit, we concluded that the board did not require that pari-mutuel auditors perform certain audit tests verifying that the internal controls over pari-mutuel wagering operated effectively. We recommended that the board provide guidelines for pari-mutuel auditors that would require these tests. Our current review indicated that the board did develop and provide guidelines for pari-mutuel auditors and that many pari-mutuel auditors had conformed with the guidelines. However, according to the totalisator systems examiner, some auditors have not followed the guidelines. In addition, other auditors have not included a statement in their reports that they performed the internal control tests; thus the board does not have written assurance that the auditors performed these tests.

**CALIFORNIA HORSE RACING BOARD**

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January 29, 1988

Thomas W. Hayes  
Auditor General  
660 J Street, Suite 300  
Sacramento, California 95814

Dear Mr. Hayes:

I have had the opportunity to review the results of the recently concluded review of the California Horse Racing Board. Any such review of an agency's operation is sure to evoke some differences of opinion, or interpretation, but the Board does not reject any of the findings in the report. We found the auditing staff to be thorough, unbiased and very professional. Several suggestions made by your audit team during the course of the review have already been implemented. Others will be.

Examinations for Steward

The CHRB Steward's Committee consists of three Board Members who oversee the functions of the state steward's program and sit as the interviewing panel for the steward's examinations. I have been assured that the panel was consistent in inquiring as to each candidate's experience, recent job history and knowledge of racing operations. Nevertheless, it is not unreasonable to suggest the recording of the interviews for later review, and the Committee will implement that procedure for all future examinations.

Licenses for CHRB Stewards

It seems somewhat redundant to require each steward hold an occupational license. Of the listing of qualified stewards provided as attachment A to the report, all but 10 came from the ranks of the racing officials and held a license as such. 14 hold a current license as a racing official. Since stewards have the rights and immunities of public officers when performing their duties, the Board issued identification cards and badges to stewards to distinguish

them from other licensees. Regardless of our interpretation of what constitutes a "license", I intend to direct that all stewards be required to obtain a license and submit the fingerprint card. We are aware of the non-disqualifying misdemeanor conviction of the steward who then participated very successfully in a rehabilitative program.

#### Control over Fingerprint Records

The Board's staff has, since 1982, made continual effort to verify that a fingerprint record has been obtained from each and every licensee - from control ledger in which each fingerprint card was recorded when sent to the Department of Justice to the present computerized records system. Clearly, since 1982 we have reduced the percentage of our licensees for whom DOJ can find no record of a fingerprint card submitted from the Board. The audit staff is fortunate that DOJ would run a name-check sampling through its files to determine whether or not a fingerprint card was on file for the selected individuals. If the Board staff could do the same for all its licensees, the individuals missing from DOJ files could be identified. DOJ cannot provide that service. The alternative method is to require a set of fingerprints be submitted from all licensees not yet identified in our files as being cleared through DOJ. We are, at present, doing just that, as well as implementing a record tracking system within our computer program.

#### Parimutuel Audit Reports

I have directed that all parimutuel audit reports include a statement from the auditors detailing the internal controls performed in the examination and that all follow our specified audit plan. While the majority of the parimutuel audit reports do, at present, follow our audit plan and do include a statement as to the internal controls which are performed, we have implemented a verification process to ascertain that all reports comply fully.

#### Charity Racing Distributions and Reports

The issue of controls over charity racing proceeds is more complex than indicated in the report. The advent of simulcast wagering, and its attendant revenues in the form of association commissions, will require the Board's Benevolent Programs Committee to examine the application of Sections 19550 through 19557 of the Business and Professions Code to the combined on-track and off-track wagering operations. As a part of our examination, the Board will establish check-off procedures to ascertain timely filing of reports and distributions of charity racing proceeds.

The responsibilities and duties of the Horse Racing Board have been significantly expanded since 1982. We have now received the resources, in the form of added personnel and computer equipment, to implement the recommendations identified in the report and accepted by this response.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul R. Deats", written in dark ink.

PAUL R. DEATS

Chairman

California Horse Racing Board